

Memorandum

Date: May 12, 2010
To: Interested Parties
From: Kris Chiles, Office Administrator
DHHS, Licensure Unit
RE: **MESSAGE THERAPY REGULATION CHANGES**

Effective May 11, 2010 the Regulations Relating to Massage Therapy, Establishments and Schools have changed. This memorandum provides you with a summary of the major changes to the regulations (but is not inclusive of every change).

The regulations may be viewed on the web site listed below. If you do not have access to a computer, you may contact our office at 402-471-4918 for a copy. Given establishments are required have one copy of the latest edition of the Massage Therapy Practice Act and one copy of the latest edition of 172 NAC 81 and 82, we are sending a copy to all establishments.

Web-site address: <http://www.dhhs.ne.gov/crl/mhcs/mass/massage.htm>

APPLICATION FOR A LICENSE

1. Revised the definition of 'course of study and training in massage therapy' and requires that all hours of study and training be gained in a class setting; further delineates who teaches or supervises the class.
2. Defines 'well-being' and 'mechanical or electrical manipulation' in the definition of massage therapy.
3. Expands the definition of licensure examination, to include the following:
 - a. The National Certification Examination for Therapeutic Massage and Bodywork (NCETMB), National Certification Examination for Therapeutic Massage (NCETM) or Advanced Certification Examination (ACE) developed by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB);
 - b. The Massage and Bodywork Licensing Examination (MBLEx) developed by the Federation of State Massage Therapy Boards (FSMTB); or
 - c. Other equivalent examinations as approved by the board.
4. Sets out the requirements for applications by reciprocity, including requiring the applicant to successfully pass the licensure examination and board developed jurisprudence examination; and allow training through a massage therapy program, a college/university, work experience, and/or continuing education for applicants who are licensed in another jurisdiction and have not completed 1,000 hours of training in massage therapy. Additionally the hour equivalents are defined as follows:
 - a. 50-60 minutes equals one hour obtained from a course of study in massage therapy;
 - b. One semester credit hour of massage therapy related college/university hours equals 15 hours;
 - c. 100 hours for each year of full-time practice as a massage therapist; and/or
 - d. Up to 100 hours obtained from NCBTMB or MBLEx approved continuing education programs.

RENEWAL OF A LICENSE

Revised the Continuing Competency Requirements to include:

1. That each licensee must obtain at least 3 hours in ethics for the November 1, 2011 renewal.
2. Effective 5/11/2010 the only acceptable homestudy program will be a program relating to 'ethics'. Homestudy completed prior to 5/11/2010 will be accepted under the previous criteria.
3. Expands the acceptable topic areas for continuing competency activities and removed prior or post approval of continuing competency programs (providers will no longer submit programs for review)

ESTABLISHMENTS & SCHOOLS

1. Revised the definition of massage therapy establishment as any duly licensed place in which a massage therapist practices his/her profession of massage therapy. This does not include:
 - a. On-site massage performed at the location of the client;
 - b. Stand-alone devices, such as chairs, which are operated by the customer; or
 - c. Establishments located within the confines of a hospital, nursing home, or other similar establishment or facility licensed or otherwise regulated by the Department of Health and Human Services. Establishments in a school are required to be separately licensed.
2. Revised the sanitation/structure/equipment requirements for a massage therapy establishment/school.
3. An establishment is no longer restricted from having the same entrance as or direct access to a massage therapy school and the entrance to the establishment is no longer required to lead directly from the outside to the establishment.
4. Requires a new application if a change of owner or change of location has occurred.
5. Revised the operating and training requirements of a massage therapy school.

While the following information is not new, we would like to take this opportunity to provide a reminder.

CONVICTIONS

A license or application to practice a profession may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 38-178 when the applicant, licensee, or registrant is guilty of any of the acts or offenses listed in 38-178 or 38-179. One of these grounds which is commonly unreported is **conviction of a misdemeanor or felony**.

Initial license applicants: You are required to list all misdemeanor/felony convictions, regardless of when they occurred (even if they occurred while you were a minor). Failure to list convictions OR marking NO on the application relating to convictions when you did have a conviction, may result in disciplinary actions such as a probationary license. Therefore, if you are not sure if a ticket or arrest resulted in a misdemeanor or felony conviction, we suggest that you contact the court in the county where you were ticketed or arrested. Additionally, not all juvenile offenses are sealed; therefore, it's to your benefit to double check with the court.

Once You are Licensed: If you have any criminal charges or license disciplinary actions pending that result in conviction or license discipline, you are required to report such actions to this Department within 30 days. Failure to report within the 30 days may result in disciplinary action, such as a fine, probation or other action.

The following provides just a small **sampling** of some of the misdemeanor convictions; this is not an exclusive list (intended as examples), there are many more not listed here:

<ul style="list-style-type: none">• MIP• DUI / DWI• Controlled Substance• Open Container• Tobacco Use by Minor• Shoplifting / Theft / Burglary• Unauthorized use of a Financial Transaction• Disturbing the Peace• Assault• Disorderly Conduct• Disorderly House• Reckless Driving	<ul style="list-style-type: none">• Driving under Suspension / Revocation License Vehicle without Liability Insurance• Fail to Appear in Court• False Information or Reporting• Leave the Scene of an Accident• Operator not Carrying License• Unlawful Display of Plates/Renewal tabs• Park Rule Violation / Curfew Violation• Dog at Large / Fail to Vaccinate Animal• Littering• Bad Check• Fireworks	Convictions are delineated in Nebraska Statutes Chapter 28
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In addition to reporting the conviction/disciplinary action in writing, you must submit the following:

- Official Court Record, which includes charges and disposition;
- A letter from the you explaining the nature of the conviction;
- All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
- A letter from your probation officer addressing probationary conditions/current status, if you are on probation.
- If you hold a license/certificate in health care in another state and it has been revoked, suspended, limited or disciplined in any way, an official copy of the disciplinary action, including charges and disposition.

MANDATORY REPORTING

If you have first hand knowledge of a violation of the statutes or you commit a violation, you are required to report such violation to the Division of Investigation (telephone: 402-471-0175 or web site: <http://www.dhhs.ne.gov/reg/investi.htm>).

- Reports must be submitted in writing within 30 days of occurrence/action
- Reporting partners, except for self-reporting are immune from criminal or civil liability
- Must have first hand knowledge

*Exceptions to reporting are: 1) If you are a spouse of the practitioner; 2) If you are providing treatment which means information is protected by a practitioner-patient relationship (unless a danger to the public); 3) When a chemically impaired professional enters the Licensee Assistance Program 4) When serving as a committee member or witness for a peer review activity; 5) Convictions that were dismissed by diversion, pardoned, set aside; or expunged.

Failure to report may result in disciplinary action against your license. You can find a summary of mandatory reporting requirements at <http://www.dhhs.ne.gov/crl/SMRRequire.pdf>

ADMINISTRATIVE PENALTIES

Practice Prior to Licensure: If you practice prior to issuance of your license, you are subject to assessment of an Administrative Penalty of \$10 per day up to \$1,000, or such other action as provided in the statutes and regulations governing the credential.

Practice after Renewal Expiration: If you practice after the expiration of your license (expiration date is November 1 odd-numbered years), you are subject to assessment of an Administrative Penalty of \$10 per day up to \$1,000, or such other action as provided in the statutes and regulations governing the credential.

ADDRESS AND/OR NAME CHANGES

It is your responsibility to notify the Department of any name and/or address changes prior to the renewal period. **Address changes** may be made on-line (<https://nebraska.mylicense.com>), in writing or over the telephone. **Name changes require** submission of a photocopy of the documentation of the legal name change.

WEB SITE and CONTACT FOR QUESTIONS

You can view the licensing information, board information, a copy of the regulations/statutes, how to file a complaint, etc. on the web; additionally, you can download applications. The web site is <http://www.dhhs.ne.gov/crl/mhcs/mass/massage.htm>

You can also check licensee records and print a verification of your license at:
<http://www.dhhs.ne.gov/lis/lisindex.htm>

If you have any questions, contact Rita Watson at 402-471-4918 or rita.watson@nebraska.gov or Kris Chiles at kris.chiles@nebraska.gov